

WAD 2917
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9/1/1993

Responsiveness Summary

Appeal of Dangerous Waste Permit Issued to Burlington Environmental, Pier 91 WAD 000812917

September 1993

This document summarizes the comments received on an appeal of a dangerous waste permit issued by Department of Ecology in 1992 to Burlington Environmental (Burlington) for their Pier 91 facility. Also included are responses to the comments.

Background

On July 22, 1992, Ecology issued a final Resource Conservation and Recovery Act (RCRA) permit to Burlington. Several days before the effective date of the permit, Burlington appealed nine requirements. Burlington asked that seven permit conditions be revised, that one requirement be eliminated, and that the "permittee" be clarified.

On October 1, 1992, Ecology announced a comment period on the appeal. During this period, two groups asked for a public hearing on the issues. In response, a public hearing was held on January 13, 1993, in the Magnolia area of Seattle.

Ecology received 9 letters and heard 3 testimonies on Burlington Environmental's appeal of the permit for their Pier 91 facility. About 40 people attended the hearing. Copies of the comment letters and a typed transcript of the testimonies are available from the Department of Ecology upon request.

Comments and Responses

Permit Appeal Issues

Comment 1: We ask that Ecology hold a public hearing on Burlington's appeal of its Pier 91 permit. Hold it on a week night in the Magnolia/Queen Anne area. There is a need to further discuss the appealed requirements and explain the issues of concern. We are particularly concerned about migration of contaminants and would like to learn more about the issue of responsibility for cleanup. We want to know more about Burlington's current and future operations. (Bowden, Judkins/Rohrback)

Response: In response to these two requests, Ecology held a public hearing at the Magnolia Community Center on January 13, 1993.

Comment 2: On behalf of the Magnolia Community Club, thank you for holding a public hearing to review appeals issues for the facility permit. It is important for the

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community to understand the issues and responsibilities for Burlington and the Port of Seattle for the eventual cleanup of this property. (Judkins/Washburn)

Response: Thank you for the comments on the public hearing. Ecology agrees that it is important for the community to be aware of activities of facilities such as this one.

As part of the negotiations and settlement with Burlington, Ecology wrote a letter clarifying the roles of Burlington and the Port of Seattle in cleanup of the Burlington facility. U.S. EPA will administer the cleanup activities. The U.S. EPA permit -- which will address cleanup issues -- is expected to be issued this fall.

Comment 3: We urge support of the nine requirements specified by Ecology in the RCRA permit to Burlington for the Pier 91 facility. We want companies that deal with hazardous waste to fully meet the permit specifications set up by Ecology. (Kroeming, Duncan)

Response: Thank you for the support. As a result of the appeal and subsequent negotiations, Ecology amended the permit to change some, but not all, of the appealed conditions. In addition, we clarified who is responsible for activities to clean up contamination from "solid waste management units" throughout the facility. The changes provide some of the relief Burlington requested while protecting human health and the environment. For example, Ecology allowed changes to the tank design that provide protection that is as good as, if not better than, the design specified in the 1992 permit.

Dangerous waste compliance inspectors from the Ecology's Northwest Regional Office are responsible for ensuring Burlington, and other companies managing dangerous waste, comply with permit conditions. These staff will inspect the facility periodically. Significant penalties can be imposed if a company is found to be out of compliance with its permit.

Comment 4: Burlington is correct that the Port should not be included as a Permittee. If the Port were to agree to cover all cleanup costs and to hold Burlington harmless for liability issues that arise, it may be of benefit to have Burlington do the cleanup. The result would be a much cleaner neighbor for Magnolia. (Judkins/Rohrback)

Response: Burlington asked the Port of Seattle to be designated as a "permittee" along with Burlington because the company did not want to be solely responsible for corrective action at the entire Terminal 91 facility. The "corrective action" cleanup is required under the Resource Conservation and Recovery Act (RCRA) for contamination from any area that has been used for solid waste disposal or management. For the purposes of corrective action, the "facility," is made up of all contiguous property owned by the Port of Seattle at Piers 90 and 91.

As the result of Burlington's appeal, Ecology and the U.S. Environmental Protection Agency wrote a letter clarifying which entities are responsible for the corrective action cleanup at Burlington Environmental's Pier 91 facility. Burlington will be responsible only for contamination that occurred on the four acres the company leases, contamination originating on this leased area that has migrated outside the site, and any other contamination outside the leased area that occurred as a result of Burlington's operations. The Port of Seattle will be responsible for cleaning up contamination on surrounding properties if the contamination did not result from Burlington's activities or from the four acres the company leases. Attachment #2 of the addendum to the settlement agreement has a more complete explanation of Burlington's and the Port's responsibilities for cleanup at the facility.

Comment 5: The liability for ground water cleanup is joint and several and everyone connected to the property is potentially liable. Our taxpayers cannot afford another mistake by the Port's property management. We are concerned about the potential for this permit to make the Port of Seattle liable for claims if significant contamination is found. We are also concerned that Burlington's liability be proportionate to its responsibility for contamination. (Orme, Judkins/Washburn, Bowden)

Response: Under the Resource Conservation and Recovery Act (RCRA), both the owner and the operator of a dangerous waste management facility are responsible for contamination the facility contributed to the environment. Thus, both Burlington and the Port are responsible for contamination at the facility (see response to comment 4).

Joint and several liability for cleanup is a provision of the federal Superfund Program (authorized by the Comprehensive Environmental Response, Compensation, and Liability Act or CERCLA) and state Toxics Cleanup Program (authorized by the Model Toxic Control Act). Cleanups under RCRA authority do not have the same liability provision; not everyone connected to the property would be potentially liable.

At this time it is not possible to determine the cost of cleanup that may be required at the facility. If cleanup commences, Ecology presumes the Port and Burlington will determine how the cost will be apportioned through their own negotiations. Private agreements regarding financial contributions for environmental cleanup are generally honored by the agencies, so long as the necessary work is done.

Comment 6: Public agencies, such as the Port, should take special care to avoid situations where property would lose value and lead to costly property rehabilitation at the public expense. (Judkins/Washburn)

Response: Ecology agrees that owners and operators of dangerous waste facilities should avoid contaminating their land. The dangerous waste regulations are meant to prevent contamination of the environment. Examples of these requirements are procedures to

reduce and respond to spills during facility operations, inspections to identify spills and other problems that could lead to contamination of the environment, and procedures to properly close the facility when it stops operating. Closure of facilities helps ensure and confirm that the land can be productively used after a facility discontinues its operations.

Unfortunately, spills and releases have occurred at many dangerous waste management facilities in the past and rehabilitation of the land will be required. The corrective action requirements under the Resource Conservation and Recovery Act (RCRA) hold a company accountable for their past operations and help ensure contamination problems that resulted from past operations are cleaned up. Most of the serious releases occurred before current regulations were fully developed and implemented. U.S. EPA will address specific cleanup requirements for the Pier 91 facility (see response to comment 2).

Comment 7: Past activities have undoubtedly contaminated the property. We want to know more about existing contamination of the site and the associated liabilities. The degree of contamination caused by past users of the property is unknown, especially since Burlington is the most recent occupant and the only user that has handled hazardous waste. (Judkins/Washburn, Bowden)

Response: U.S. EPA will be issuing a permit to Burlington in the near future to address contamination in the environment at the facility. The permit will require investigations to determine the nature and extent of contamination. Ecology will let U.S. EPA Region 10 staff know you are interested in the progress of the investigations.

Comment 8: Burlington's request that an independent laboratory not be required if a review and audit of test results can be conducted by a third party designee of the Department of Ecology is appropriate. (Judkins/Rohrbach)

Response: In place of the requirement to use a state-accredited lab to test wastes, the permit has been modified to include a new quality assurance/quality control plan prepared by Burlington. This plan details the procedures and methods Burlington will carry out to ensure that sampling and test methods are done in a way that produces data that is technically sound, statistically valid, and properly documented. Ecology had originally required use of a state-accredited lab to ensure Burlington implements a proper quality assurance/quality control procedures.

Comment 9: During the hearing it was revealed that trucks are queued at the facility awaiting testing of the waste prior to acceptance. This is very dangerous and should be avoided. Suggest testing and acceptance of waste by the facility prior to the hazardous material leaving the place of origin. Would it be unreasonable to expect Burlington to randomly test wastes for PCBs to insure they are not being misled by clients? Does Ecology test the samples which Burlington submits for PCBs? (Bowden, Puma)

Response: The lining up of trucks discussed during the hearing had to do with a permit requirement to test incoming waste shipments for PCBs. This condition, Burlington argued, would result in trucks lining up to wait for a day or two until the test results were available. As part of the appeal process, Burlington asked for the condition to be stayed pending final resolution of the appeal. Under an agreement between Ecology and Burlington, the PCB testing will be omitted on incoming shipments. Instead, Burlington will take a sample from each incoming shipment and store it. Before any waste or oil product leaves the facility, Burlington will test it for PCBs. If the test shows the presence of PCBs, the company will review their records and test the stored samples from the shipments that contributed to the contaminated batch of waste or oil.

For general information, waste is tested before it leaves the place where it is generated. Before a waste can be shipped to Burlington, the facility must obtain and review detailed information on the waste to determine if it can be managed at the Pier 91 facility. In addition, when a waste shipment arrives at the facility, Burlington must do certain tests to confirm that the shipment contains the waste they agreed to receive. Only after the identity of the waste shipment is confirmed is Burlington able to accept the waste. Therefore, analyses are necessary on a waste shipment when it arrives at the facility, even though the waste would have been characterized before the shipment was sent. During formal inspections of the facility, Ecology staff will review testing records to check whether the proper procedures are followed.

The time required for confirmatory analyses could result in trucks being forced to wait at the facility before unloading. However, during the permit appeals process, Ecology and Burlington agreed on procedures to minimize the waiting time. In particular, because completion of PCB analyses required more time than other confirming analyses, special procedures were developed for PCB confirming analyses (please see amended permit condition II.A.12 for more information). Ecology believes lines of loaded trucks waiting for confirming analyses at the facility will continual to be minimal.

Comment 10: Occasional shipments of waste will likely contain PCBs above the designated limit. The trade-off of comprehensive testing is the increased cost of disposal (a function of the additional analysis) and any associated operational difficulties (e.g., trucks stacking up waiting for results). This means a more likely possibility of a serious spill on the site. There is considerable uncertainty in the accuracy of sampling procedures used to assess the PCB level of waste. Multiple samples from each incoming truck would be necessary to insure accuracy of the PCB level. The best option is probably to restrict the permit to not allow high PCB wastes; it is hard to consider how effective this approach would be in minimizing the PCB exposure to the ultimate disposal site, because controls or spot checks Ecology performs on the generators of the waste are unknown. (Judkins/Rohrback)

Response: The facility can store and treat only wastes with low levels of PCBs, because it does not have a permit issued under the Toxic Substances Control Act, or TSCA. For changes to the PCB testing requirements, see comment 9.

Comment 11: Burlington's request to do additional ignitability testing only on low flashpoint material is reasonable. The exact cutoff for subsequent testing depends on the precision and accuracy of the standard test. (Judkins/Rohrback)

Response: The permit was not changed in response to Burlington's appeal of the ignitability testing requirement. The company had asked for the permit to include the conditions under which the "closed cup" test must be used. Ecology requires that the test be used for the initial full characterization of the waste stream and during tests to confirm the identity of the waste shipment in certain cases. Specifically, Ecology wants the "closed cup" test performed if the confirming tests or initial waste characterization shows the ignitability value is close to the limits for accepting the waste or for designating it as ignitable. During negotiations, Burlington agreed to accept the language in the original permit condition.

Comment 12: It seems reasonable to allow Burlington to keep the closure and other records off-site. The records appear to still be readily accessible. If the permit were amended to allow the keeping of the records on-site in electronic medium, the storage space required couldn't possibly exceed 1 cubic foot. (Judkins/Rohrback)

Response: Ecology has amended the permit to allow Burlington to maintain certain of its records at the company's corporate office. The operating record for the Pier 91 facility must specifically reference the records that are being kept off-site. Ecology agrees that these referenced records will still be readily accessible. In general, the amended permit still requires records to be kept on-site if they are vital to daily facility operations. For example, maps showing the location of current and past dangerous waste management units must be kept on-site, as well as, other environmental permits, results of analyses, and inspection reports.

Comment 13: Closure standards should be to MTCA method A or B cleanup standards; the background levels required as a condition of the permit are too restrictive. (Puma)

Response: The state's current closure standards for facilities such as Burlington Pier 91 are background levels. That regulatory requirement is reflected in the Pier 91 permit. However, Ecology is proposing to change the closure standards in the state dangerous waste regulations to those specified in the Model Toxics Control Act (MTCA) regulations as Method A and B. These rules are codified as Chapter 173-340 of the Washington Administrative Code, or WAC. If the proposed regulatory change is made final, Burlington may apply to Ecology and ask to modify the permit to change to the new closure standards.

Comment 14: It seems reasonable that Burlington be allowed to submit a new tank design as long as it has been tested to insure the safe storage of waste material. (Judkins/Rohrback)

Response: During negotiations, Burlington submitted new tank designs. Ecology reviewed the designs and agreed they provide as good, if not better, protection than the design specified in the permit.

Comment 15: The area has been designated as the highest risk zone for seismic action, particularly for liquefaction during an event. The tanks could rupture and leak during a catastrophic event. Therefore, do not waive tank leak protection requirements. Require increased liquid and vapor leak detection and sufficient containment for the entire tank capacity at the site. A major spill would immediately travel to Puget Sound. (Puma)

Response: Ecology has not waived tank protection standards for this facility. The permit requires daily inspections to ensure tanks are not leaking. Concrete barriers (i.e., secondary containment systems) surround groups of dangerous waste tanks to avoid release of contaminants from a failed tank to the soil or water. The capacities of the containment systems are sufficient to hold the entire volume of the single largest tank enclosed within the berm plus stormwater accumulation from the largest storm of 24-hour duration predicted to occur at 25-year intervals. State and federal regulations do not support additional requirements for leak detection and containment for the facility.

The facility is located in an area of relatively high probable seismic intensity (i.e., it is in the Uniform Building Code Zone 3 for seismic activity). As a result, the structures at the facility, including foundation of waste management tanks, are designed to standards meant to resist the expected seismic intensity. Additionally, the facility's contingency plan is designed to be able to respond to natural emergencies, such as earthquakes.

Comment 16: Ecology's ability to request samples appears reasonable. For a monitoring program to be effective, Ecology needs the right to randomly collect samples from the facility. A pre-arranged scheduling of the tests would render the testing less effective. (Judkins/Rohrback)

Response: Ecology has amended the permit to respond to Burlington's concerns. In changing the condition, Ecology retained the right to request samples without a pre-arranged schedule. The new language clarifies that Ecology can ask for samples of waste or of environmental media (e.g., soil or water) and can require analysis for "any waste constituent, characteristic, or criteria which has a reasonable possibility of being present."

Comment 17: We applaud Ecology for placing tough standards in the permit to protect public health and the environment. Facilities such as this one, located in densely populated areas, should be strictly monitored and adequately tested to protect human

health and the environment. The oil recycling facility should not be a cover for both air and water pollution from the newly expanded facility. (Kroeming)

Response: Thank you for comments on the permit and regulations. Numerous aspects of the facility will be subject to daily inspections by Burlington personnel to monitor for safe operations. Results of these inspections will be placed in the facility's operating record. In addition, Ecology will inspect the facility for compliance with its permit and the dangerous waste regulations.

Certain recycling activities are exempt from the permit and most other requirements of the dangerous waste rules. Companies which recycle oil are required only to notify Ecology of the recycling activities and ensure the oil does not contain certain chemicals. Although this activity is exempt from most of the requirements in the state dangerous waste rules, it is not exempt from other federal, state, and local environmental regulations. For example, the Municipality of Metropolitan Seattle (METRO) and the Puget Sound Air Pollution Control Agency are responsible for ensuring the operation complies with water and air discharge regulations, respectively.

Comment 18: It is very disturbing that I have lived in Magnolia for three years unaware that the hazardous waste facility is so close. The only notice I got was from an unofficial announcement posted by community members. It never occurred to me that anything like this could be situated so close to a metropolitan area. I can only hope that Ecology and U.S. EPA will be in favor of our rights and safety and well being. (Doran)

Response: Ecology has made several efforts to notify people in the Seattle area about the Burlington Pier 91 permit. In the past two years, we published notices and mailed flyers announcing the draft permit for the facility and Burlington's appeal of the permit. Unfortunately, you were not on our mailing list. Ecology has added your name to the mailing list for this and other dangerous waste facilities statewide. In the future, you will receive notices announcing public hearings and comment periods Ecology conducts for dangerous waste management projects.

Ecology and U.S. EPA regulations and policies require waste management facilities, such as Burlington Pier 91, to be particularly diligent to ensure public safety. Dangerous waste management standards are comprehensive and intended to ensure dangerous wastes are safely managed from their generation through destruction or disposal.

Permit

Comment 19: The hazardous waste tracking system does not always work. For example, there was recently a case of lost hazardous waste that came from Canada and went to Tacoma and Seattle before being finally sent to a cement kiln. Whatever can be done to

improve the tracking system would be appreciated. I hope tracking requirements are part of the permit. (Kroeming)

Response: Tracking requirements are a part of the Burlington permit. The following paragraphs describe how waste tracking generally occurs for wastes sent to and from the facility.

All dangerous waste shipped to Burlington must be accompanied by several copies of a manifest signed by the person who generated the waste and by the transporter of the waste. The manifest provides information about the type and quantity of wastes in the shipment. When Burlington accepts the waste they must sign the manifest, signifying their acceptance, and immediately return a copy of the manifest to the transporter. Burlington must also return a copy of the manifest they signed to the original generator within 30 days. Receipt of the manifest signifies to the generator that their waste has been delivered and accepted by Burlington. If the generator does not receive a signed copy of the manifest from the facility within 35 days of the shipping date, the generator must contact the waste transporter and facility to determine the status of the shipment. If the generator does not receive the signed manifest within 45 days, the generator must file a report to Ecology that their waste may not have been delivered to the facility as intended. Ecology would then investigate what had happened with the waste shipment and take other appropriate measures.

Residues, which are dangerous waste, result from Burlington's treatment of wastes they receive. Burlington must send some of these wastes to other treatment or disposal facilities for management. Burlington is considered the generator of these wastes and must ensure they are delivered to the appropriate facility as outlined above.

The permit also specifies procedures Burlington must follow to track wastes if the wastes are transferred from one tank to another within the facility itself. These external and internal tracking procedures will minimize mistakes in waste tracking.

Comment 20: Is the purpose of granting the final permit for the facility to finance cleanup? (Orme)

Response: No, state and federal laws and regulations require that dangerous waste management facilities be permitted, or they must not operate. Ecology and U.S. EPA determined that this facility was a high priority for completing the final permit. Prior to 1992, Burlington operated the Pier 91 facility under a temporary permit (i.e., interim status permit). A final permit ensures that the facility will be operated in an environmentally more protective manner.

U.S. EPA plans to issue a federal permit which will, among other things, address cleanup at the facility. Burlington will be required to ensure they can finance any required cleanup under that permit.

Facility Location

Comment 21: While we do not favor unnecessary requirements, we do favor reasonable, suitably restrictive requirements intended to protect our residential neighborhood and local food and retail establishments. And it seems logical that waste facilities do not belong in residential neighborhoods. The facility should not be allowed unless it presents no measurable nuisance or safety hazards. Burlington Environmental's intent to ensure a cleaner environment is not questioned. But the facility should not be located in this fast growing area of Seattle. Burlington and the Port should provide a safer location, with less public liability and neighborhood health threat. Chemical processing should not be zoned for this area. (Orme, Read)

Response: Thank you for your comments regarding regulatory requirements.

The area of the facility is zoned general industrial by the City of Seattle; therefore, this facility is not precluded on the basis of zoning restrictions. Under state law, private industry is free to choose the location of facilities. Ecology believes the dangerous waste management standards provide a balance between comprehensive, stringent requirements and the flexibility needed by industry to perform necessary treatment and management of these wastes. The regulations are specifically designed to protect human health and the environment.

Ecology determined from Burlington's permit application that the Pier 91 facility can meet regulatory standards for safe operation. Review of the project included an evaluation of whether it could be safely operated at its present location.

Odor

Comment 22: The odor from the Burlington waste management facility is repulsive and more than we can bear under certain wind conditions. The Puget Sound Air Pollution Control Agency (PSAPCA) has lacked the ability to stop it. Contaminated air poses an unwelcome health hazard to thousands. We are concerned about what we may be breathing. (Fowler, Orme, Read)

Response: U.S. EPA and the PSAPCA administer permits and regulations that address air emissions and the odor problems associated with this facility and others nearby. The permit under appeal does not address odors and air emissions from the facility.

Therefore, Ecology has sent copies of the three comment letters to an investigator at PSAPCA.

PSAPCA is aware of odor problems in the Pier 91 area and is searching for the possible source. They inspected the oil recycling facility operated by Pacific Northern Oil Company (called PANOCO) in early August 1993; however, more work is needed. At this time, PSAPCA has not clearly identified the source of the odor problem. People who are aware of an odor problem may continue to call PSAPCA at 343-8800 to register a complaint.

In addition to the work of PSAPCA, the U.S. EPA will be issuing a hazardous waste permit to this facility. The U.S. EPA permit, which is separate from the one issued by Ecology, will cover U.S. EPA-administered requirements related to air emissions from equipment leaks. Some of the tank systems at the Burlington Pier 91 facility are subject to these federal regulations. Therefore, the company is required to inspect for leaks from certain valves, flanges, pumps and other equipment at the facility. If the odor is from the Pier 91 facility and from chemical constituents covered by the federal regulations, the monitoring and resultant measures to repair equipment so it does not leak will help reduce the problem.

However, the odors may arise from tanks for which emission controls are not required under federal laws. If so, the permit U.S. EPA will issue would not help reduce the odor problem.

Eliminate or Upgrade the Facility

Comment 23: If we could get rid of the facility it would be best. (Fowler)

Response: Ecology has determined through a detailed permit application review that Burlington is able to operate the Pier 91 facility in compliance with state dangerous waste regulations. Additionally, Burlington and Ecology have successfully settled appeal issues surrounding the dangerous waste permit that was issued in August 1992.

Comment 24: The original facility is old and was constructed for a different purpose under standards that had little or no concern for the environment. We suggest there is an ever-increasing risk of failure with time. The facility is an important and necessary service to the region, but we recommended that Ecology, the Port of Seattle, and Burlington start planning for a modern replacement facility. (Judkins/Washburn)

Response: The recently-issued dangerous waste permit requires Burlington to design and operate the facility to current dangerous waste management standards. Under the

permit, dangerous wastes will be stored and treated only in areas that have been upgraded to meet these current standards.

During review of the permit application, Ecology evaluated the condition of structures such as the tanks, process equipment and concrete containment system when reviewing permit application. All of these structures are required meet current standards regardless of their age. Any that did not meet design standards must be upgraded or replaced under conditions of the permit. For example, Burlington will upgrade several tanks and all of the concrete containment structure around the tanks. Additionally, these structures are subject to ongoing inspections to ensure they remain adequate to contain and otherwise manage dangerous waste. The facility will meet all environmental protection requirements when construction required by the permit is completed.

Comment 25: To severely condition this permit is not in the community's best interest because continued use of the facility will continue to threaten our health from the facility's byproducts. (Orme)

Response: The facility meets comprehensive and stringent regulatory requirements designed to ensure protection of human health and the environment. Therefore, it has been permitted to manage dangerous waste.

Dangerous Waste Facility Operations

Comment 26: Burlington's effluent from hazardous waste cleanup is discharged in Metro's West Point and Magnolia's shoreline. This area already has high levels of polynuclear aromatic hydrocarbon concentrations. (Orme)

Response: Burlington does have a pre-treatment permit to discharge waste water generated by their treatment processes. It was issued by the Municipality of Metropolitan Seattle (METRO) for discharge to the METRO treatment plant and not directly to the environment. Since this issue is outside of our authority, Ecology has sent a copy of your letter to an investigator at METRO's Industrial Waste group to alert her to your concerns.

Comment 27: What does this facility accept besides waste oil? What solvents and phenolics are handled by Burlington and how are they treated and disposed of? How are residuals from treatment disposed of? Have these residuals been characterized? What are they? (Bowden)

Response: Burlington typically processes oil and coolant emulsions, industrial wastewaters, and industrial waste sludges. In addition, they blend wastes into dangerous waste fuels. The waste streams may contain metals and a variety of phenolic compounds

and/or solvents. Burlington treats the wastes in tanks. Treatment methods include oxidation, reduction, demulsification, precipitation, neutralization, and heat.

The treatment processes on-site result in used oil product which is marketed for re-use; dangerous waste fuel, which is burned in industrial furnaces or boilers for energy recovery; sludges from waste water treatment; debris such as soil and used sampling equipment; and spent carbon from the carbon adsorption system. Wastes that cannot be further treated on-site are sent off-site to a facility that treats or disposes of it; the application does not describe the specific treatment or disposal these wastes receive (it is not required to provide such an explanation). Under the "land ban restrictions," wastes must undergo certain types of treatment or they must be treated until contaminants are below a certain level, before they can be disposed in a landfill. For example, some wastes must be burned in a hazardous waste incinerator. Some of the treated waste water is discharged to the sanitary sewer system under a permit issued by METRO.

The state's dangerous waste rules require that the Burlington Pier 91 facility characterize all wastes generated by the facility.

For more information on the wastes accepted and generated by Burlington, please see the permit application. Copies are available for review at the Department of Ecology's Northwest Regional Office and the Headquarters Office. U.S. EPA Region 10, in Seattle, also has a copy.

Used Oil Operations

Comment 28: The group has been told that oil is transported along the pier in a cast iron pipe. Is this correct? We are concerned that cast iron is extremely brittle and may be inappropriate for that use. Is this correct? Are there plans to replace the pipe with a more suitable material? If there are, are they part of the permit? We have been told that oil is contained in bunkers that date from World War II and that they have been modified many times. Is this correct? Is Burlington's proposed alternative tank design modification functionally equivalent from an environmental protection perspective to Ecology's proposed design? Effective secondary leak detection is essential to protection of the marine environment. (Bowden)

Response: The used oil recycling activities Burlington undertakes is exempt from the permit and most other requirements of the dangerous waste rules. Companies which recycle oil are required only to notify Ecology of the recycling activities and ensure the oil does not contain certain chemicals. Therefore, the RCRA permit issued to Burlington does not cover the used oil activities, including the pipes used to transfer the oil and the bunkers that hold the oil.

Although this activity is exempt from most of the requirements in the state dangerous waste rules, it is not exempt from other federal, state, and local environmental regulations. For example, METRO and the Puget Sound Air Pollution Control Agency are responsible for ensuring the operation complies with water and air discharge regulations, respectively. In addition, should oil be spilled to soil or ground or surface water, the Department of Ecology would be able to require the spilled oil be cleaned up.

The tanks that are used to store or treat dangerous wastes must have secondary containment. In addition, the facility must inspect the tanks and the secondary containment to look for leaks or deterioration that could lead to leaks. If these problems are found, the facility must clean up the spilled material and remedy deterioration problems (for example, cracks in secondary containment must be filled and sealed).

People Who Commented on Burlington Environmental's Appeal of the Permit Issued for Their Pier 91 Facility

Letters Received in October and November 1992

Bruce Bowden, President, Citizens to Save Puget Sound
Ursula Judkins, President, Magnolia Community Club, with attachment by Dr.
Brian Rohrbach
Margaret Duncan, the Suquamish Tribe

Letters Received in January 1993

Patricia Doran
Carolyn and Scott Fowler
Bonnie Orme
Tony Puma
Debra Read
Tim Washburn, President, Magnolia Community Club (same as testimony from
Ursula Judkins)

Testimony Presented at January 13, 1993 Hearing presented in order of appearance

Nancy Kroeming
Ursula Judkins, immediate past president, Magnolia Community Club (same as
letter from Tim Washburn)
Bonnie Orme